

Local Government Employee-Management Relations Board E-Newsletter

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Courts Hear Two Important Cases

In the past week two important cases involving the EMRB were heard before judges of the Eighth Judicial District. On Friday, April 15th Judge Linda Bell heard oral arguments on the so-called SB 241 case involving SEIU, Local 1107 and Clark County. The EMRB held that SB 241 only affected collective bargaining agreements that go into effect after the bill went into effect on June 1, 2015. The Board also held that there is a rebuttable presumption that employee organizations gave consideration for any union leave in existing CBA's and that the evergreen portion of the bill does not freeze any "systems" of compensation after a CBA has expired, such as step increases. The Petition for Judicial Review, filed by Clark County, contested all three decisions of the EMRB. Upon conclusion of the oral arguments, Judge Bell stated that she will take everything under consideration and render a decision in due course.

On Wednesday, April 20th Judge Kenneth Cory heard oral arguments on the Petition for Judicial Review filed by the Education Support Employees Association in its case against Teamsters Local 14. This case concerned the recent election in which Teamsters was certified as the new CCSD support staff union representative. The issue before the court was whether the EMRB had the right to change the method of determining the winner from the so-called supermajority rule, which required the winner to receive a majority vote of the entire bargaining unit, to a majority of the votes cast. Judge Cory ruled that the EMRB did not have the right to change the standard. He then remanded the case back to the EMRB for possible further action, which might include holding another election. At its next meeting on May 10th the Board will discuss what step it should next take in response to Judge Cory's decision.

Annual CPI Letter Issued

One of the lesser known provisions of SB 241 concerns school administrators. School administrators who make more than \$120,000 per year are not allowed to belong to a bargaining unit. This amount is indexed for inflation. SB 241 makes it a duty of the EMRB Commissioner to annually send a letter to all the school districts on April 1st to let them know the new threshold amount for the coming year. This was done as planned and the new threshold 2016 will be \$120,875. Copies of the letters were also sent to the various unions representing school employees. If you did not receive the letter please call our office and we would be glad to e-mail you a copy.

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On the Horizon

The next meeting of the Board will be in Las Vegas on Tuesday, May 10th through Thursday, May 12th. The agenda for the meeting will be issued on Monday, May 2nd. One case is scheduled for May. It is 2015-020, International Union of Elevator Constructors, Local 18 v. Clark County. These are the same two parties involved in the fact finding panel (see article below). The employee organization alleges that the County made unilateral changes and also bargained in bad faith with respect to union leave and the suspension of certain pay and benefits. The case involves the interpretation of SB 241, signed into law last year, and thus has allegations similar to those raised by SEIU, Local 1107 against Clark County. Also in May the Board is expected to set the rates for the annual invoices to be issued in late June. The current rate is \$6.75 per employee and staff is recommending no change to that rate.

The June meeting will also be in Las Vegas and will take place on Tuesday, June 14th through Thursday, June 16th. At that time it is expected that the Board will hear 2015-017, North Las Vegas Police Supervisors Association v. City of North Las Vegas. Although the case has a number of allegations, the heart of the case concerns the allegations that the city gave work normally done by sergeants at the detention center to other police officers. Please note that the Board has not yet officially set this case for hearing in June but is expected to do so at its May meeting.

Fact Finding Panel to Meet

The EMRB has convened a fact finding panel in a contract dispute between the International Union of Elevator Constructors, Local 18 and Clark County, who have been negotiating a new collective bargaining agreement for some time. Impasse has been declared, but the parties could not agree on whether to make the interest arbitration binding or non-binding. A provision in our law states that when the two parties cannot agree on whether the arbitration should be binding, then either party can request the formation of a fact finding panel, whose purpose is to determine whether the arbitration is to be binding. The fact finding panel, which consists of attorney Robert Spretnak, accountant David Morgan, and a third member selected by those two, Valerie Weber, is scheduled to hear the matter on April 27th and 28th. There are six different contract provisions in dispute and the panel will need to determine whether each of them is to be binding or non-binding.

Regulations Workshop Set for May 17th

The Legislative Counsel Bureau finished drafting the proposed regulation and the EMRB has now scheduled the required workshop, to be held on Tuesday, May 17, 2016, at 2:30 p.m. Notices have been issued to the official contacts on our various mailing lists. The workshop will be held at the Bradley Building in Las Vegas and at the Business & Industry Director's Office in Carson City. The proposal does four things: (1) allow for the electronic service of documents as an enhancement to the electronic filing of those same documents; (2) eliminate the requirement, for security reasons, of including the home addresses of the parties within the body of a complaint; (3) clarify the timing rules for the filing of documents by adopting the same rules as are used by the courts; and (4) prohibit the attachment of exhibits to complaints, answers and pre-hearing statements. A copy of the proposed regulation may be found on our website.

Website Updates

The EMRB has finished updating its website with the most recent version of the collective bargaining agreements, as submitted by the various unions late last year. We have heard a number of good comments about making these available to everyone. Moreover, the website now has three new additions. We have added a directory of all the local governments, containing information from the annual filings of those entities. Secondly, there is a similar directory of the various employee organizations. We hope you will find the information, including the contact information, useful. Finally, we have added the Electronic Digest of Decisions, discussed more fully elsewhere in this newsletter.

In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. Below is a description of the current queue:

One case is currently scheduled for May: 2015-020, International Union of Elevator Constructors, Local 18 v. Clark County.

There are currently a number of cases in the queue awaiting a hearing date:

A1-046127, Mike Quick v. Las Vegas Metropolitan Police Department
2015-013, Eric Brown v. Las Vegas Metropolitan Police Department
2015-017, North Las Vegas Police Supervisors Association v. City of North Las Vegas
2015-019, Pamela Dittmar v. Teamsters Local 14 & City of North Las Vegas
2015-026, Cesar Sedano & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department
2015-027, Bonner & Washington v. City of North Las Vegas
2015-029, Melissa Reed v. Storey County & Antinoro

Electronic Digest of Decisions

The Board recently updated – and improved – a product it used to annually issue but had not done so since 2008. The product, originally called the Comprehensive Index of Decisions, had a number of indices, along with paragraph summaries of each Board decision. The purpose of the product was to enable practitioners to find relevant decisions when filing documents and making arguments before the Board. The product, just released, is now electronic and may be found on our website in both searchable Word and .pdf formats. The new product, now called the Electronic Digest of Decisions, no longer needs the indices because the document itself, which is more than 200 pages, is searchable. The EMRB will quarterly update the product. Future enhancements, already in the works, will hyperlink the summaries to the orders themselves and will also include codes that categorize the orders into like subject matters.

Review by Sunset Subcommittee

In last month's newsletter we detailed our March 15th appearance before the Sunset Subcommittee of the Legislative Commission. This body is tasked with determining whether various boards and commissions are to be terminated, combined, remain as is or otherwise be modified. The recommendations will then be forwarded to the 2017 legislature for possible action. We learned that a decision on the EMRB's future will be made by the subcommittee at its June 16th meeting. We will inform you in the June newsletter of the subcommittee's decision. In the meantime if you have any questions please contact us.

"About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.